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Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/743,339
Filing Date: December 22, 2003
Appellant(s): ZVER ET AL.

David R. Moorman
MAGINOT MOORE & BECK
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 26, 2007 appealing from the Office action mailed May 11, 2007.

(1) Real Party of Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,292,379	EDEVOLD ET AL.	9-2001
6,923,285	ROSSOW ET AL.	8-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edevold et al. (6,292,379) and Rossow et al. (6,923,285). Edevold teaches an arrangement providing power to an electrical device comprising an inverter (20), first switch (64, i.e. relay), a second switch (22), a utility power line source (16), and a bypass controller (24) (Fig. 5). He teaches the controller causing a first transition sequence (FTS), in response to an overcurrent condition in the inverter or via a user input, where the first switch changes to an open position and subsequently the second switch changes to a closed position. He further teaches that during the FTS the inverter is discontinued before the first switch is opened. He also teaches the controller causing a second transition sequence (STS) where the second switch opens subsequent to the first switch closing. He also teaches the controller enabling the inverter to operate again after the first switch is closed. He also teaches the controller continually sensing the input voltage (information) of the utility. He also teaches the inverter having switches utilizing a half bridge topology to output a precise AC output to the load (inherent that it would use a variable frequency drive). (Col. 6, lines 43-45, 52-55, 58-60; Col. 8, lines 29-67; Col. 9, lines 1-23). Edevold fails to teach indicators and indicia when the arrangement is in certain operating modes. Rossow teaches LED

indicators and indicia (Fig. 3B) for indicating operating modes in a power system. He goes on to teach certain LEDs being illuminated when certain switches are closed (certain operating modes) (Col. 12, lines 26-38). It would have been obvious to one of ordinary skill in the art at the time of the invention to use LEDs and indicia in Edevold's invention so that the operator will know the operating mode in which the system is working in. Therefore, when the first switch is closed (i.e. in inverter power state), an LED is continuously lit with matching indicia; same with when the second switch is closed (i.e. in utility power bypass state). During transition mode, the first LED will be on, and then turn off (when the first switch is opened), and the second LED will be off, and then turn on (when the second switch is closed) (intermittently).

(10) Response to Argument

Regarding the limitation of claim 1, the Examiner believes that the Edevold/Rossow combination does teach "causing intermittent actuation of the second indicator during at least a portion of the first transition sequence." Edevold (the main reference) teaches a first switch being closed while in an inverter power state, and a second switch being closed during a utility power bypass state. He also teaches the first transition sequence where the first switch is opened and subsequently the second switch is closed (i.e. changing from an inverter power state to a utility power bypass state). Also, Rossow teaches LED indicators for indicating which operating mode a power system is in. He also teaches that certain LEDs being continuously illuminated when certain switches are closed (i.e. certain operating modes). Therefore, when Rossow's LED indicators are combined with Edevold's invention, the Edevold/Rossow invention now teaches *during a portion of the first transition sequence* (the portion starting 1 second before the second switch is closed and ending 1 second after the second switch is closed) *there is intermittent*

actuation of the second indicator. The Examiner would like to note that the definition of "intermittent" is not continuous; occasional; and during that portion (noted above) of the first transition sequence the second indicator's actuation goes from off to on, and therefore is intermittently actuated during that portion of the first transition sequence.

Also, the above argument can be used for claim 10 as well. The above explanation for the first transition sequence is equivalent to the "third visible configuration" of claim 10.

Regarding the use of the word inherently regarding the above limitation, based on what each of these references teach individually and when they are combined, they inherently teach intermittent actuation of the second indicator during a portion of Edevold's first transition sequence. Rossow teaches having a particular indicator light continuously on while in a particular state (i.e. when a certain switch is closed), and along with Edevold's first transition sequence, the combination inherently has an intermittent actuation of a second indicator during a portion of the transition sequence. The extrinsic evidence of these two references makes clear that the second indicator will go from off to on during the first transition sequence (i.e. intermittent actuation).

Regarding the Appellant's argument that Rossow is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, contrary to the Applicant's assertion, Rossow is particularly pertinent to the problem of "user interfaces." The Applicant argues that normally there is no user interaction with UPS systems during operation, however, Edevold (the

main reference) teaches a user input in his UPS system to command a changeover from inverter mode to bypass mode (Col. 6, lines 58-60), therefore there is a particular need for "user interfaces" in Edevold's invention, and Rossow solves that problem. Edevold teaches user interaction with his UPS system, but doesn't teach the method of interaction between the user and the UPS system. Therefore, one would be inclined to look for a user interface method that would be beneficial to Edevold's invention and while looking for user interface methods one could come across the Rossow patent, which teaches a user interface apparatus that indicates to the user, based on the user's inputs, what mode of operation a device is in (whether it be a fork-lift or a UPS system).

Regarding claim 7, the inverter in Edevold's invention receives AC power via line 16 and rectifies it through a rectifier (66), and then converts the DC power back to AC using an inverter (70) which has a half bridge topology (he also states that other topologies are acceptable) and has a controller which controls the inverter's switches. Based on the timing of the actuation of those switches allows Edevold's inverter to have a variable frequency output (say via PWM). Therefore, Edevold teaches an inverter having a variable frequency drive. Also, at different times the precise AC output needed to supply to a load may vary by voltage, frequency, and/or current, and that's where the timing of the actuation of the switches comes in to drive the variable frequency.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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